



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03-123; FCC 13-119]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities - Waivers of iTRS Mandatory Minimum Standards

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes to amend its rules setting minimum standards for telecommunications relay services (TRS) by eliminating standards for Internet-based relay services (iTRS) and public switched telephone network-based captioned telephone services (CTS) which are inapplicable to, or technologically infeasible for, these services. In the past and currently, these services had been exempted from these standards by the grant of waivers. This action is necessary to provide greater certainty for iTRS and CTS users and providers with respect to the TRS mandatory minimum standard and to obviate the need for further periodic waiver filings regarding the waived standards.

DATES: Comments are due **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and reply comments are due **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by CG Docket No. 03-123, by any of the following methods:

Electronic Filers: Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site <http://fjallfoss.fcc.gov/ecfs2/>. Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and **CG Docket No. 03-123**.

- Paper filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

In addition, parties must serve one copy of each pleading with the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, or via email to fcc@bcpiweb.com. For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Roger Holberg, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418-2134 or email Roger.Holberg@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Waivers of Mandatory Minimum Standards, Notice of Proposed Rulemaking (NPRM), document FCC 13-119, adopted on September 5, 2013, and released on September 6, 2013, in CG Docket No. 03-123. The full text of document FCC 13-119 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone: (800) 378-3160, fax: (202) 488-5563, or Internet: www.bcpiweb.com. Document FCC 13-119 can also be downloaded in Word or Portable Document Format (PDF) at <http://www.fcc.gov/encyclopedia/telecommunications-relay-services-trs>. To request materials in accessible formats for people with disabilities (Braille,

large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY). The proceeding this NPRM initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with sec. 1.1206(b). In proceedings governed by sec. 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules.

Initial Paperwork Reduction Act of 1995 Analysis

Document FCC 13-119 does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Pub. L. 104-13. In addition, therefore, it does not contain any proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, see 44 U.S.C. 3506(c)(4).

Synopsis

1. In the last decade, iTRS and CTS providers have petitioned for and been granted waivers of various TRS mandatory minimum standards deemed inapplicable to or technologically infeasible for iTRS and CTS. Several of these waivers have been limited in duration, necessitating periodic requests for extension by the affected providers.

2. When section 225 of the Communications Act of 1934, as amended (Act), was first enacted and implemented, there was only one type of TRS, which required the party with a speech or hearing disability to utilize a text telephone, or TTY, to transmit text over the PSTN to a communications assistant (CA). The CA then relayed the call between two parties by converting everything that the text caller typed into voice for the hearing party and typing everything that the voice user responded back to the person with a disability.

3. With the development of new communication technologies, the Commission recognized new forms of TRS as eligible for compensation from the Interstate TRS Fund, including three forms of iTRS: Video Relay Service (VRS), Internet-Protocol (IP) Relay, and IP CTS. Today iTRS account for more than 90% of the total relay service minutes reimbursed from the Fund. For all forms of TRS, the Commission has adopted mandatory minimum standards to achieve functionally equivalent relay service.

4. To ensure that TRS is provided in a manner that is functionally equivalent to voice telephone service, section 225 of the Act requires the Commission to prescribe functional requirements, guidelines, operations procedures, and minimum standards for these services. The Commission's mandatory minimum standards are intended to ensure that the user experience when making TRS calls is as close as possible to a voice user's experience when making conventional telephone calls. Over the years, however, the Commission has granted TRS providers waivers of certain TRS mandatory minimum standards that were deemed either technologically infeasible for or simply inapplicable to a particular form of TRS. The waivers granted for IP CTS and CTS have been issued for indefinite periods, while most waivers granted for VRS and IP Relay have been limited in duration. Generally, the limited-duration waivers have been renewed periodically - in recent years on an annual basis. The Commission has conditioned many of the waivers on the filing of annual reports in which providers are expected to detail their progress in achieving compliance with the underlying mandatory minimum standards. The reports are designed to help the Commission determine whether technological advances can enable providers to comply with the waived mandatory minimum standards.

5. On November 19, 2009, Hamilton Relay, Inc., AT&T Inc., CSDVRS, LLC, Sorenson Communications, Inc., Sprint Nextel Corporation, and Purple Communications, Inc. (Petitioners) filed a "Request for Extension and Clarification of Various iTRS Waivers" (Hamilton Request), requesting the Commission to extend indefinitely all iTRS waivers of limited duration and to provide clarification on what Petitioners claim are discrepancies in some of the waivers. The Commission initiates this proceeding both in response to Petitioners' request and to fulfill our commitment to take a more in-depth look at the merits of making permanent or eliminating these

waivers. Although the Hamilton Request did not address the waivers granted for CTS, the Commission includes those waivers as well in the scope of this overall review.

6. In undertaking this review, the Commission notes that, historically, it has generally been reluctant to grant permanent exemptions from its mandatory minimum standards based on mere assertions of technological infeasibility. The Commission undertakes its current review of the pending waivers mindful of this Commission precedent.

7. The iTRS waivers that the Commission addresses in this proceeding generally fall into two categories. One group consists of waivers for standards mandating that TRS include features and functions that are available with voice telephone service. In this first group, the Commission has waived the mandatory minimum standards for “types-of-calls,” equal-access, pay-per-call, three-way calling rules, and speed dialing. The second group consists of waivers for standards mandating the provision of specific communication services needed by people with speech or hearing disabilities. In this second group, the Commission has waived mandatory minimum standards for voice carry over (VCO), hearing carry over (HCO), speech-to-speech (STS), ASCII/Baudot-compatible services, Spanish-to-Spanish, and call-release. With respect to waivers that are presently limited in duration, the Commission seeks comment on whether to make the waivers permanent by amending its rules to explicitly state that the waived mandatory minimum standards are inapplicable to the specified iTRS providers. The Commission asks whether this approach will result in a clearer understanding of and better ongoing compliance with the Commission’s rules. For waivers that are already of unlimited duration, the Commission seeks comment on whether amending its rules to codify these as permanent exemptions similarly would result in a clearer understanding of and better ongoing compliance with the Commission’s rules.

8. Types-of-Calls Requirement. Commission rules require TRS providers to “be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so.” Until now, the Commission has waived the “types of calls” mandate in response to iTRS providers’ showings that there is no effective per-call billing mechanism to accurately identify and bill iTRS users for long distance and operator-assisted calls, and that the costs of developing such a mechanism would be prohibitive. Many providers have maintained an inability to devise such a mechanism because they claim that they do not have a billing relationship with their users, and that to set up a billing system would not be cost effective. The Commission seeks comment on whether the justifications that have supported this waiver in the past still exist such that it should continue to extend the limited-duration waiver has been done in the recent past or whether we should codify a rule that permanently exempts iTRS providers from having to offer these billing options. Finally, even though the Commission has never waived the types-of-calls requirement for IP CTS, Hamilton seeks an exemption for all forms of iTRS. To the extent Hamilton meant to include IP CTS in its request, the Commission seeks comment on the rationale for establishing a permanent exemption under circumstances where no waiver has been granted previously.

9. The Commission seeks comment on the continued need to require the provision of operator-assisted billing (i.e., collect, calling card, and third party billing) and sent-paid billing for long distance calls handled by iTRS providers, in light of the significant changes that have taken place in communication technologies - including the steep decline in traditional relay usage since the initial adoption of the “types of calls” requirement more than 20 years ago.

10. Given these technological changes, including the greater reliance that relay users have on iTRS, consumers may no longer need or necessarily want the same billing options that were

appropriate when relay services were primarily accessed via the PSTN. The Commission seeks feedback on this assumption, and whether amending its rules to eliminate the requirement for iTRS providers to offer billing arrangements for “operator-assisted” billing and sent-paid billing for long distance calls, provided that iTRS providers do not charge for such calls, is appropriate and consistent with the Act’s intent to achieve functional equivalency. In this regard, the Commission asks commenters to address all three forms of iTRS-VRS, IP Relay and IP CTS-and to specifically address the rationale for eliminating the requirement for IP CTS under circumstances where no waiver has been granted previously.

11. Equal Access to Interexchange Carriers. The Commission’s rules require TRS providers to offer consumers access to their interexchange carrier of choice to the same extent that such access is provided to voice users. The Commission has waived this requirement indefinitely for IP Relay and IP CTS providers and on a limited-duration basis for VRS providers. The waivers are contingent on iTRS providers providing long distance service without charge. Should the Commission amend its rules to exempt iTRS providers permanently from the “equal access to interexchange carriers” requirement (based on its technical infeasibility and inapplicability to an iTRS environment), provided that iTRS providers do not charge for long distance service? The Commission seeks comment on the value to consumers of providing equal access to long distance carriers in an IP-based environment. Is there any reason to require iTRS providers to allow for equal access to interexchange carriers in order to satisfy the functional equivalency requirements of section 225(a)(3) of the Act?

12. To the extent that commenters believe that this requirement remains applicable and necessary to an iTRS environment, the Commission asks (1) whether it is feasible for iTRS providers to implement networking and routing solutions to allow iTRS users to choose their

carriers and (2) whether reliable mechanisms exist to allow carriers to distinguish between local and long distance calls for this purpose. Finally, the Commission invites comment on the costs of implementing solutions to fulfill this standard and on the appropriate interval for revisiting the technological feasibility issues in the future.

13. Pay-Per-Call (900) calls. The Commission's rules require TRS providers to be capable of handling pay-per-call (i.e., 900-number) calls. The Commission has waived this requirement - indefinitely for IP CTS providers, but on a limited-duration basis for IP Relay and VRS providers - because no billing mechanism has been available to handle the charges associated with pay-per-call calls. The pay-per-call standard presupposes a billing relationship that does not presently exist between iTRS providers and users. The Commission seeks comment on the technical feasibility of and benefits to requiring that such a relationship be established for the purpose of the pay-per-call requirement. In addition, the Commission seeks comment and information on whether the implementation of ten-digit numbering and registered location requirements has increased the feasibility of providing and verifying ANI for pay-per-call billing purposes. To the extent that parties maintain that this feature is not feasible now, but may be in the future, the Commission also seeks comment on the appropriate interval for revisiting the technological feasibility issue. In addition, the Commission seeks comment on whether to adopt a rule codifying a permanent exemption or to eliminate the indefinite waiver for IP CTS providers. Finally, the Commission invites comment on whether the value of pay-per-call services to iTRS consumers and possible CA exposure to abusive and/or obscene video images should affect our determination regarding a permanent exemption from the pay-per-call requirement.

14. Three-way calling. Three-way calling, also required by the Commission's rules, allows more than two parties to be on the telephone line at the same time with the CA. Waivers of the requirement for VRS and IP Relay providers were previously allowed to expire. The Commission proposes to terminate the three-way calling waiver for IP CTS providers and seeks comment on this proposal. The Commission asks commenters that disagree with this proposal to justify the need for a continued waiver. If the Commission were to eliminate the waiver of the three-way calling requirement for IP CTS, the Commission further seeks comment on an appropriate termination date.

15. Speed dialing. Speed dialing allows a TRS user to give the CA a "short-hand" name or number (e.g., "call Mom") for the user's most frequently called telephone numbers. This feature permits a person making a TRS call through a CA to place the call without having to remember or locate the number he or she desires to call. The Commission waived this requirement for VRS and IP Relay until January 1, 2008. The Commission subsequently found that all VRS providers - but not all IP Relay providers - were offering a speed dialing feature. As a result, the speed dialing waiver was allowed to expire for VRS but generally was extended for IP Relay for one year to allow the remaining IP Relay providers sufficient time to offer speed dialing.

16. With regard to IP CTS, the Commission, in 2007, indefinitely waived speed dialing for IP CTS providers, contingent on such providers filing annual reports addressing the waiver. The Commission asks for comment on whether it would be in the public interest for the Commission to terminate the waiver for speed dialing for IP CTS providers. In particular, the Commission seeks comment on whether other IP CTS providers are currently offering speed dialing capability, and if not, whether there are any technical barriers preventing IP CTS providers from

offering speed dialing. If the Commission was to terminate the speed dialing waiver for IP CTS, it seeks comment on when such termination should take effect. To the extent commenters argue for continued waiver, the Commission seeks comment on when it should revisit the need for this waiver.

17. The second group of waived mandatory minimum standards relates to specific forms of TRS needed by people with disabilities, including voice carry over (VCO), hearing carry over (HCO), speech-to-speech, ASCII/Baudot-compatible services, Spanish-to-Spanish, and call release.

18. VCO and HCO. The Commission's rules require TRS providers to offer VCO and HCO. With VCO, a person who has a hearing disability, but who is able to speak, communicates by voice directly to the other party to the call without intervention by the CA, and the other party's voice response is relayed by the CA as text. With HCO, a person who has a speech disability, but who is able to hear, listens directly to the other party's voice without intervention by the CA, and in reply has the CA convert his or her typed responses into voice. There are multiple forms of VCO and HCO. The Commission has granted fixed-duration waivers for VRS and IP Relay of all the VCO and HCO mandatory minimum standards except two-line VCO and HCO, based on providers' representations that Internet connections are unable to deliver voice and data over a single line with the necessary quality. The Commission also has granted these waivers for IP CTS indefinitely, as well as granting an indefinite waiver of HCO for CTS. All such waivers have been conditioned on the filing of annual reports regarding the technological feasibility of compliance.

19. The Commission seeks comment on whether, given advances in Internet technologies and the availability of one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY by some providers for some IP-based relay services, waivers for these features continue to be necessary. Specifically, the Commission seeks feedback on the extent to which these services are technically feasible over a broadband connection and on whether any distinction should be drawn for service in low bandwidth environments. The Commission also seeks comment on the quality and convenience of the two-line VCO and HCO services that are currently available from iTRS providers. Are such services generally available and affordable, and are these adequate substitutes for one-line VCO and HCO? To the extent that we permit two-line VCO and HCO as “work-arounds” to single-line VCO and HCO, the Commission seeks feedback on whether it should condition such waivers on providers’ absorbing the additional cost of subscriptions for any additional telephone lines needed for the voice leg of the service. The Commission asks commenters to weigh the benefits of one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY against the cost of providing these services. If the Commission were to eliminate the waivers for one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY for VRS and IP Relay, it seeks comment on an appropriate termination date.

20. The Commission seeks comment on amending our rules to permanently exempt CTS and IP CTS providers from providing any form of HCO. The Commission has previously determined that HCO involves “particular functionalities that do not apply to captioned telephone calls.” Specifically, as the Commission explained, when using CTS, “a person with some residual hearing can speak to the other party and in return both listen to what the other

party is saying and read text of what that party is saying . . . [, t]his service . . . is simply not able to handle . . . HCO relay calls.” The Commission has similarly exempted IP CTS providers.

21. Speech-to-Speech. Speech-to-Speech (STS) service allows a person with a speech disability to communicate with voice telephone users through the use of CAs who are trained to understand the speech patterns of persons with disabilities and can repeat the words spoken by that person. The Commission has recognized STS as a form of TRS and required that it be offered as a mandatory service. In 2002, the Commission waived this requirement for IP Relay providers for a limited period of time. The Commission subsequently has extended this waiver on multiple occasions. The Commission also waived the STS requirement indefinitely for CTS, IP CTS, and VRS, finding this mandatory minimum standard to be inapplicable to these relay services. Specifically, STS is purely speech-based, while CTS and IP CTS require the CA to provide communication in text and, under our current rules, VRS requires the CA to provide communication in American Sign Language (ASL). Petitioners request that the Commission waive the STS requirement indefinitely for IP Relay “because, as with VRS and IP CTS calls, one leg of an Internet Relay call is entirely text-based without any speech capabilities, thus rendering the service incapable of providing STS. The Commission seeks comment on amending our rules to exempt CTS, IP CTS and VRS providers from the STS requirement. The Commission also invites comment on whether to permanently exempt IP Relay providers from offering STS.

22. ASCII/Baudot Communications. The Commission’s rules contain technical mandatory minimum standards that are specific to the traditional TTY-based form of TRS. One of these rules requires TRS providers to be capable of handling communications using the ASCII and Baudot formats, at any speed generally in use. The Commission has granted CTS and IP CTS

providers indefinite waivers of these mandatory minimum standards but has not addressed their applicability to VRS or IP Relay providers. The Commission proposes to amend its rules to explicitly exempt all forms of iTRS from the ASCII/Baudot call handling requirement. The Commission invites comment on this proposal, and on whether to codify as permanent exemptions the existing waivers for CTS and IP CTS.

23. Spanish Language Service over CTS, IP CTS, and IP Relay. Section 64.603 of the Commission's rules requires the provision of interstate PSTN-based relay services in Spanish. The Commission has ruled that although VRS providers may offer and be compensated for Spanish language services, they are not required to do so. The Commission has not made any ruling regarding the applicability of the Spanish language requirement to CTS, IP CTS and IP Relay. Given that IP Relay, CTS and IP CTS are not mandatory, the Commission proposes to conclude that Spanish language versions of these services are non-mandatory services. In this regard, the Commission seeks feedback on the extent to which Spanish-language IP Relay, CTS and IP CTS are currently available to and utilized by consumers, on the value of such services to Spanish-speaking consumers, and on whether mandating Spanish language IP Relay, CTS and IP CTS is necessary to ensure the availability of these forms of TRS for the Spanish-speaking population. Commenters are also asked to weigh the benefits of mandating Spanish language IP Relay, CTS and IP CTS against the burdens for providers to offer these services. The Commission also seeks comment on whether to amend its part 64 rules to codify its ruling that VRS providers are not required to offer Spanish language VRS.

24. Call Release. The Commission's rules require TRS providers to offer "call release," a feature that allows the CA to drop out - or be "released" from the relay call after setting up a direct TTY-to-TTY connection between the caller and the called party. The Commission has

waived this requirement indefinitely for CTS and IP CTS providers, but on a limited-duration basis for VRS and IP Relay providers. The Commission invites comment on the inapplicability and/or technical infeasibility of the call release feature in the IP environment and consequently whether we should amend our rules to permanently exempt all iTRS providers as well as CTS providers from compliance with this standard. If parties still consider this standard relevant to IP-based services, the Commission further invites comment and information on whether solutions to the present technological barriers to this feature are available, and if so, the costs and benefits of implementing such solutions. To the extent that parties maintain that this feature is not feasible now, but may be in the future, the Commission also seeks comment on the appropriate interval for revisiting the technological feasibility issue.

25. Annual Reports. For those mandatory minimum standards for which the Commission decides to adopt permanent exemptions in place of existing waivers, it further proposes elimination of the requirement to file annual reports. The Commission asks commenters for their input on this proposal.

Initial Regulatory Flexibility Certification

26. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1)

is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

27. In document FCC 13-119, the Commission seeks comment on its proposal to permanently waive in some instances and to terminate the waivers in other instances of certain operational, technical, and functional mandatory minimum standards applicable to the provision of TRS for providers using the Internet to provide services such as VRS, IP Relay, and IP CTS as well as for providers offering traditional CTS. To be eligible for compensation from the interstate TRS Fund, a TRS provider must offer service in compliance with all applicable mandatory minimum standards, unless they are waived. The Commission has waived several of these mandatory minimum standards for VRS, IP Relay, and IP CTS either because, as Internet-based services, it is not technologically feasible for them to meet the requirement or, in the case of VRS, because VRS is a video-based service and the communication is via sign language and not text. The Commission has waived other mandatory minimum standards that are inapplicable to the particular form of TRS, including VRS, IP Relay, IP CTS and CTS. Some of these waivers have been for finite periods, usually one year, and require new waivers at the end of the period while other waivers have been for indefinite periods. Document FCC 13-119 proposes to incorporate these waivers into the Commission's rules to obviate the need for annual waivers to be applied for and granted and to harmonize the treatment of all TRS providers to which these mandatory minimum standards do not apply given the technology through which the service is provided.

28. Document FCC 13-119 seeks comment on whether to incorporate these waivers into the rules. It further seeks comment on a Petitioner's request that the Commission clarify whether the

Spanish-to-Spanish requirement should be a non-mandatory service for IP Relay and IP CTS providers as it is for VRS providers.

29. Where a mandatory minimum standard is inapplicable, the Commission proposes to convert existing waivers of the mandatory minimum standards to permanent exemptions, thereby eliminating unnecessary administrative burdens on providers and the Commission. Specifically, IP CTS providers have received waivers for the following features: (1) gender preference; (2) handling calls in ASCII and Baudot formats; (3) call release; (4) Speech-to-Speech; (5) Hearing Carry Over (HCO) and VCO services; (6) outbound 711 calling; (7) emergency call handling; (8) equal access to interexchange carriers; (9) pay-per-call (900) service; (10) three-way calling; (11) speed dialing; and (12) certain rules applying to CAs.

30. With regard to the criterion of the economic impact of document FCC 13-119, with respect to those waivers that are proposed to be made permanent or otherwise codified, the Commission notes that all providers potentially affected by the proposed rules, including those deemed to be small entities under the SBA's standard, would benefit by being relieved from the necessity to periodically file for new waivers of the TRS mandatory minimum standards and from incurring unnecessary expenses in research and development of features or services that are inapplicable to certain types of TRS services. Therefore, the Commission concludes that with respect to those waivers, document FCC 13-119, if adopted, will not have a significant economic impact on any entities.

31. With respect to those waivers that are being terminated, the record shows that the providers are generally providing the features that had been the subject of such waivers. For example, the record shows that providers are now able to offer three-way calling and speed

dialing. With respect to one-line VCO, one-line HCO, VCO-to-VCO, HCO-to-HCO, VCO-to-TTY, and HCO-to-TTY, the Commission is seeking comment to better determine which features should be waived and which features no longer require a waiver for the providers of VRS, IP Relay, IP CTS and CTS. The Commission believes that the entities that may be affected by the termination of such waivers are only those TRS providers that offer VRS, IP Relay, IP CTS and CTS. Should the TRS providers, including the small entities, become affected by the termination of such waivers, the costs of compliance of the requirements to offer three-way calling and speed dialing are minimal. Neither the Commission nor the SBA has developed a definition of “small entity” specifically directed toward TRS providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers, for which the small business size standard is all such firms having 1,500 or fewer employees. Collectively, there are fewer than ten TRS providers that are authorized by the Commission or, in the case of CTS, by any state Commission, to offer these services. No more than four of these entities may be small businesses under the SBA size standard. Therefore, document FCC 13-119, if adopted would not have a significant economic impact on a substantial number of small entities.

32. The Commission therefore certifies, pursuant to the RFA, that the proposals in document FCC 13-119, if adopted, will not have a significant economic impact on a substantial number of small entities. If commenters believe that the proposals discussed in document FCC 13-119 require additional RFA analysis, they should include a discussion of these issues in their comments and additionally label them as RFA comments. The Commission will send a copy of document FCC 13-119, including a copy of the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.

Ordering Clauses

33. Pursuant to the authority contained in sections 1, 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 225, that document FCC 13-119 IS ADOPTED.

34. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of document FCC 13-119, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR part 64

Individuals with disabilities, Telecommunications.

Proposed Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 64 as follows:

Part 64 - MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); 403(b)(2)(B), (c), Pub. L. 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, and 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, unless otherwise noted.

2. Amend § 64.603 by adding paragraph (c) to read as follows:

§ 64.603 Provision of services.

(c) Providers of captioned telephone relay service, Internet-based captioned telephone relay service, VRS and IP Relay are not required to offer speech-to-speech relay service and interstate Spanish language relay service.

3. Amend § 64.604 by revising paragraphs (a)(3)(ii), (iv), (v), and (vi) and (b)(1) and (3) to read as follows:

§ 64.604 Mandatory minimum standards.

* * * * *

(a) * * *

(3) * * *

(ii) Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call. Providers of Internet-based TRS need not provide the same billing options (e.g., sent-paid long distance, operator-assisted, calling card, collect, and third party billing) traditionally offered for wireline and wireless voice services.

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(iv) Relay services other than Internet-based TRS shall be capable of handling pay-per-call calls.

(v) TRS providers are required to provide the following types of TRS calls: Text-to-voice and voice-to-text; VCO, two line VCO, VCO-to-TTY, and VCO-to-VCO; HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO. VRS providers are not required to provide text-to-voice and voice-to-text functionality. IP Relay providers and VRS providers are not required to provide VCO-to-TTY and HCO-to-TTY. Captioned telephone service providers and Internet-based captioned telephone service providers are not required to provide text-to-voice; VCO-to-TTY; HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO.

(vi) TRS providers are required to provide the following features: call release functionality (only with respect to the provision of TTY-based TRS); speed dialing functionality; and three-way calling functionality.

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(b) Technical standards-(1) ASCII and Baudot. TTY service shall be capable of communicating with ASCII and Baudot format, at any speed generally in use. Other forms of TRS are not subject to this requirement.

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(3) Equal access to interexchange carriers. TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services to the same extent that such access is provided to voice users. This requirement is inapplicable to providers of Internet-based TRS if they do not assess specific charges for long distance calling.

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Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

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